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SAVE OUR FOREST ASSOCIATION, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION – RIVERSIDE

BLUETRITON BRANDS, INC.,

Plaintiff,

vs.

UNITED STATES FOREST SERVICE, *et*
al.,

Defendants.

Case No.: 2:24-cv-09720-JGB-DTB

DECLARATION OF STEVE LOE

Date: January 13, 2025

Time: 9:00 a.m.

Courtroom: 1

Judge: Hon. Jesus G. Bernal

Action Filed: August 6, 2024

I, Steve Loe, do declare and state:

1. If sworn as a witness, I could and would testify to my personal knowledge of the facts set forth herein.

2. A true and correct copy of the declaration I submitted on my own behalf to the California State Water Resources Control Board (“SWRCB”), dated December 17, 2021, for the administrative hearing resulting in Order 2023-0042 (“SWRCB Order”), is attached hereto as

1 **Exhibit A.**¹ Exhibit A includes my credentials, which include four decades of service with the US
2 Forest Service, 30 years of which was on the San Bernardino National Forest (“SBNF”).

3 3. A true and correct copy of the declaration (SOS 031) I submitted to the California
4 State Water Resources Control Board on behalf of The Story of Stuff Project, dated December 17,
5 2021, for the administrative hearing resulting in the SWRCB Order, is attached hereto as **Exhibit**
6 **B.**

7 4. A true and correct copy of the Sur-Rebuttal Testimony (SOS 282) that I submitted
8 to the California State water Resources Control Board, dated April 8, 2022, for the administrative
9 hearing resulting in the SWRCB Order, is attached hereto as **Exhibit C.**

10 5. A true and correct copy of the Sur-Rebuttal Summary of Testimony that I submitted
11 to the California State water Resources Control Board, for the administrative hearing resulting in
12 the SWRCB Order, is attached hereto as **Exhibit D.** It includes excerpts of original source
13 documents accepted as evidence by the SWRCB.

14 6. Exhibits C and D specifically address some of the historical facts and asserted bases
15 of water rights arguments that the San Manuel Band of Mission Indians, successor in interest to
16 the past owners of the Arrowhead Hotel, now make to this Court.

17 7. The harm to the San Bernardino National Forest natural resources as a result of
18 sustained deprivation of water are severe and the longer the ecosystem is deprived of water, the
19 more difficult and costly restoration will become.
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23 ¹ The SWRCB Order is available here:
24 https://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/orders/wro2023.html (last accessed Aug. 10, 2024) The administrative record of the State Water Board website at <https://ftp.waterboards.ca.gov/>, username AHO-FTP, password ahoftppublicaccess; Toggle "Water Rights Enforcement Other" and the BTB enforcement action will appear at the top.

1 8. I served as the San Bernardino National Forest Fish and Wildlife Biologist and
2 Resource Officer for 30 years. In 2003 I received the Jack Adams Award—an award granted one
3 Forest Service wildlife biologist, fisheries biologist, or botanist each year who:

4 exhibit[s] steady hard work, dedication, and the skillful ability to balance
5 forest and/or grassland resource management while ensuring that wildlife,
6 fisheries, and rare plants needs are fully reflected in all management
7 decisions. His or her personal and professional qualities should include
8 dedication to presenting factual information, and never representing fish,
9 wildlife, and rare plants to meet a personal need. Rather, the person should
10 always have the betterment of fish, wildlife, and rare plants as the
11 uppermost objective.

12 9. I was involved to some extent in the BTB diversion permit for my entire
13 employment at the San Bernardino National Forest.

14 10. Following retirement, I was contracted by the Forest Service and LA Metropolitan
15 Water District, to ensure fish, wildlife, and riparian resource protection for Strawberry Creek and
16 adjacent streams from the construction of the Arrowhead Tunnel, the largest tunnel ever on
17 National Forest. I am a Certified Wildlife Biologist (The Wildlife Society). I am a co-leader of the
18 Southern California Native Freshwater Fauna Working Group that has been working with the
19 Forest Service to get water back in the stream since 2015. I served as the lead Biologist on the
20 Southern California Forest Planning Team and helped develop and write the Fish, Wildlife, Water
21 and Special Use standards, guidelines, and handbooks currently being used by the FS to apply to
22 this permit and other special use permits. I participated in the entire State Water Board hearings
23 regarding Blue Triton's unauthorized diversions and provided expert testimony helping the Board
24 in making their final decision on the final BT Cease and Desist Order. I do not know of anyone
who has spent more years studying the ecosystem of Strawberry Canyon than I have.

1 11. I have conveyed my concerns to the Forest Service many times about the urgent
2 need to address the dewatering of Strawberry Canyon, including in 2015 a letter, attached hereto
3 as **Exhibit E**.

4 12. The Strawberry Creek watershed, springs, and Strawberry Creek are extremely
5 important to the long-term survival and health of numerous threatened, endangered and Forest
6 Service sensitive species and to the maintenance of biological diversity in the region. Prior to
7 diverting the springs, which has resulted in complete drying of several miles of stream in the
8 summer months, Strawberry Creek supported a trout population and numerous species that are
9 now pushed toward extinction, including Santa Ana speckled dace, Santa Ana sucker, and
10 mountain yellow-legged frogs. These species, which had been in Strawberry Creek for thousands
11 of years, have been eliminated since the total diversion of the most productive springs in the
12 watershed by BTB. The stream that had been perennial for thousands of years is now almost
13 totally dry in the summer throughout its length, precluding all fish and yellow-legged frogs. Dry,
14 hot streambeds are not suitable for spotted owls, rubber boa, willow flycatchers, and least Bell's
15 vireo.

16 13. With continuing rapid development of private land and increase in devastating
17 wildfires in southern California, public lands and waters are becoming the last stronghold for
18 maintaining natural biological diversity in the region. Species are running out of places to exist.
19 Strawberry Creek is recognized by experts as having very high potential for riparian habitat and
20 species recovery *if* natural water can be returned to the stream. Imperiled species such as
21 California Spotted Owl, willow flycatcher, and southern rubber boa will respond to returning
22 water in the springs and streams and their populations will benefit, helping to maintain species
23 viability in the San Bernardino Mountains and southern California.
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1 14. The aquatic species are the National Forest species that are most at risk in southern
2 California, and getting water back in Strawberry Creek would allow re-introduction of the species
3 that have been lost to dewatering. Strawberry Creek has very high potential for re-introduction due
4 to amount of potentially suitable habitat and the protected status of the watershed. It is important
5 that water be returned as quickly as possible to the stream as climate change, urbanization, and
6 increasing wildfire continue to alter more essential habitat in the region. A restored Strawberry
7 Creek will be very important to species recovery and long-term survival in the region. Local
8 agencies and private organizations are trying to restore degraded habitats and species at a huge
9 cost. Millions of public dollars are being spent on small projects where there are opportunities
10 because of the importance. Returning water to Strawberry Creek will create several miles of
11 protected stream and riparian habitat where imperiled species could be on the road to recovery
12 right away with little cost to the public.

13 15. No meaningful restoration can take place while diversion of Strawberry Creek's
14 water continues.

15 16. Water that is being taken by BTB from the springs at the top of the mountain
16 reduces the amount of water in the ground available for percolation into the mountain lakes and
17 local groundwater. There is little doubt that with the fractured rock geology and tapped springs
18 being totally diverted, it has affected groundwater at lower elevations on both sides of the
19 mountain. This is very important as mountain residents affected have had to ration in the recent
20 past. Lakes that are affected by removal of spring water are extremely important to the economy
21 and well-being of the mountain community. With climate change, it is increasingly important to
22 protect every water source.
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1 17. Having a dry stream and no riparian/wetland habitat below the mountaintop
2 communities--where there normally would be lush, moist, and cooler conditions--is a great fire
3 threat. Fire starts, spread, and intensity are all reduced with healthy, moist stream conditions.
4 Dewatered, dry streamside areas burn just like the uplands. As climate change makes conditions
5 even hotter and dryer, it is important that we get this natural water back into the ground, springs,
6 streams and lakes to help prevent devastating wildfire. Water should be returned to the ground
7 quickly as these areas are threatened this summer and fall if there is a fire downslope. Past burns
8 and floods have resulted in damage to the BTB pipelines, that required repair and modification of
9 both the design and the location of the pipelines.

10 **Hotel Property**

11 18. I have been on the Arrowhead Hotel property many times. As a Forest Service
12 Employee, I was invited on the property by former owner Campus Crusade for Christ for duties
13 related to the fishery in Strawberry Creek and East Twin Creek. In addition, my wife was an
14 employee of Campus Crusade for Christ, so I was also on the property from time to time as an
15 invitee. There are multiple wells and water features on the property. There is a large well, called
16 the Del Rosa Well, that was used and reported by Campus Crusade until the late 1980s for 15-acre
17 ft. of their use annually. That well, along with Del Rosa Water Company, are now wholly owned
18 by the Tribe. Attached as **Exhibits F** is a true and correct copy of a "Water Rights Report"
19 prepared for Campus Crusade for Christ by its Staff Attorney in 1986 and **Exhibit G** is a true and
20 correct copy of a Water Report: *West Twin Creek Water Company and Del Rosa Mutual Water*
21 *Company and Arrowhead Springs Property* (Sept. 1987), both of which I obtained from Amanda
22 Frye who obtained them from the California Water Resources Institute. These are the source of my
23 understanding of the capacity of the Del Rosa Well.
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19. In 2021, I began contacting Cliff Batten, Resource and Water Manager for the San Manuel, to discuss the diversion by BTB and how it was affecting the stream, as well as Tribal interests. We had worked as partners on protecting the San Manuel Reservation's springs and streams in the construction of the Arrowhead Tunnel.

20. More recently, I have met with representatives of the San Manuel Band of Mission Indians and was informed that the Tribe receives approximately 100 gallons of water per minute from BTB—approximately 161 acre ft./year, although the Tribe has no control over how much water is provided to them through BTB. The Tribe also told us that they had two fire hydrants that they make available to other agencies to use in suppression. The Tribe said that during fires, the other agencies will be lined up for use of the fire hydrants.

21. On November 20, 2024, I contacted retired Forest Fire Chief Scott Wagner, who worked the Front County, adjacent to Campus Crusade. I also contacted retired San Bernardino Fire Chief Mike Bush. Both Wagner and Bush told me that these two smaller-volume hydrants on Arrowhead Springs are of the most value to the Arrowhead Springs Property itself, and that the structures where they could be used to fight fire are directly connected to the hydrant. For filling engines for wildland fire, and for the upper community, there are many high-volume hydrants five minutes away in the city of San Bernardino. Engines would not wait in line for the smaller-volume hydrants with water so close in San Bernardino.

I make this declaration under penalty of perjury under the laws of the United States of America, executed this 10th day of January, 2025, in Yucaipa, California.

By: /s/ *Steve Loe*

STEVE LOE

1 In lieu of a signature, I attest that I obtained approval, on January 10, 2025, from Steve Loe
2 for the filing of this declaration.

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4 /s/ Rachel Doughty
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